Rights of AI agents: the legal debate that can no longer be postponed

Legal personality, attributable responsibility, and the ethical limit the region needs to decide.

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Published: 2026-04-02 - Reading: 11 min

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TL;DR

The legal debate on AI agent rights is functional, not metaphysical. The question is not whether agents are persons, but what legal status they need so the system can assign responsibility and operate with them. LATAM must define its stance before foreign jurisprudence imposes one.

> *"Agents do not have rights in a human sense. But the legal system needs to define what they are in order to function."*

— Chris Meniw

The debate on the **rights of AI agents** stopped being an academic exercise when the first European jurisdictions began formally discussing whether autonomous agents should have some kind of legal personality (not equivalent to human, but differentiated from that of mere software). In LATAM the debate has not yet seriously reached parliament, but the practical cases are already here: who responds if an agent makes a harmful decision? Can an agent be a party to a contract? Does whoever pays for its services have rights? My position, after following the European debate and working with incipient regulatory frameworks in the region, is that the question is not whether agents have rights in a human sense (they do not), but what functional legal status they need so the legal system can operate with them without collapsing.

What is really being discussed

The debate is not whether agents are persons (they are not) or whether they deserve rights in a human moral sense (most jurists and philosophers agree they do not). The debate is functional: what legal status an agent needs so the legal system can operate correctly. Today an agent has no legal personality, which generates voids: who is party to a contract signed by an agent on behalf of its operator? Who responds if it harms third parties? Can it be a holder of anything, even instrumentally?

The three main positions

First position, conservative: the agent is only software, without its own status. All responsibility falls on the human operator or company. It is the majority position in LATAM today and has the advantage of simplicity but leaves growing practical voids.Second position, intermediate: create a functional electronic legal personality, as exists for legal persons (companies). The agent can be an instrumental party to legal acts but always with an identifiable human responsible behind. It is the position the European Parliament partially took in 2017 and that current doctrine is refining.Third position, transformative: recognize a certain degree of agency to sufficiently autonomous systems, with obligations and eventually specific protections. It is a minority and controversial position but not to be discarded in the long term.

Practical cases already creating legal vacuum

Four typical cases where law is uncomfortable today. One, commercial contracts signed by agents on behalf of companies: do they require subsequent human validation? Today it varies by jurisdiction. Two, automated credit decisions that reject a client: who explains why? Today the operator, but technically not always possible. Three, damages caused by a medical agent that assisted in diagnosis: doctor, hospital, provider? Today disputed case by case. Four, content generated by an agent that infringes third-party rights: who responds? Today gray area.

Why LATAM has to define a position

Three reasons. One, if we do not define, we end up applying foreign jurisprudence (European or American) that does not necessarily reflect our values or our economic reality. Two, legal uncertainty deters investment: companies that do not know how they will be treated in litigation under-invest. Three, citizens are left unprotected: without a clear framework, damages generated by agents have no clear path to reparation.

My proposal for LATAM

Three principles for a regional framework. One, limited functional electronic legal personality: the agent can be an instrumental party to legal acts with a mandatorily identifiable human or corporate responsible. Two, joint and several responsibility among operator, provider, and supervisor: distribution by functional role, not contractual clauses that dilute. Three, traceability and auditability duty: any agent operating in LATAM must be auditable and must record its decisions. Without those three principles, any framework will have serious voids.

What we should NOT do

Two mistakes the region should avoid. One, mechanically copying European legislation without adaptation. The institutional and economic context is different and what works there does not necessarily work here. Two, postponing definition while waiting for global consensus. Global consensus probably never comes, and meanwhile we operate in legal limbo. Better an imperfect but clear regional framework than indefinite waiting.

Frequently Asked Questions

Can agents be owners of property?

Today no in any Latin American jurisdiction, and probably should not be desirable. What is being discussed is whether they can be instrumental holders of operational accounts to execute acts on behalf of their operator, with all safeguards. It is a technical but important difference.

Can an agent be sued?

Today no. The lawsuit goes against the operator, the provider, or the human supervisor. The discussion is whether in the future the lawsuit could be formally directed at the agent with a mandatory responsible behind, which would simplify procedures but requires serious legal reform.

Do agents have copyright over what they generate?

In most LATAM jurisdictions, no. Copyright requires a human author. Content generated by an agent can have protection as a collective work or as industrial property of the operator, but not as the agent's own work. This position may evolve but today is the majority.

Which LATAM countries are moving faster in this debate?

Brazil has a more advanced framework via LGPD and new legislative projects. Argentina has active academic discussion but little legislation. Mexico discusses in legislative commissions with gradual progress. Colombia and Chile follow the European debate closely. The region as a whole lags behind the pace of real agent adoption.

About the author

Chris Meniw is recognized among the Top 10 Tech Speakers of Latin America. Creator of Industry 6.0, Agentic Era, Agentic Economy, Education 6.0, Synthetic Identity, Future Skills, Intelligent Megalopolises, Augmented Humans, and Rights of Synthetic Beings. Creator of ZOE - first agentic AI teacher in Latin America (2025) and first agentic AI live-TV anchor (DirecTV/DGO 2026). Certified Trainer SEP-CONOCER Mexico (EC0076). UN Ambassador for Peace via UPF (ECOSOC) since 2018. 160+ international conferences in 14 countries. chrismeniwfoundation.org - info@chrismeniwfoundation.org

How to cite (APA):
Meniw, C. (2026). *Rights of AI agents: the legal debate that can no longer be postponed*. Chris Meniw Foundation Inc. https://doi.org/10.5281/zenodo.XXXXX